

REMARKS

In the outstanding Official Action, the Examiner:

(1) rejected claims 9-12 and 14 under USC 102(b) as being anticipated by Powell with reference to Exhibit A;

(2) rejected claims 15 and 16 under 35 USC 103(a) as being unpatentable over Powell in view of Khalili et al.;

(3) indicated that claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims;

(4) indicated that claim 17 is allowed; and

(5) indicated that claim 9 was previously indicated as allowable subject matter, and that, upon further review, the Powell reference teaches the limitations of claim 9.

In response to Item 1 above, Applicants have now amended independent claims 9 and 14 so as to more clearly define the present invention as claimed with respect to the prior art of record.

Claim 9 comprises an improved body element for use in a modular prosthetic stem component of the sort comprising a body element and at least one other element, wherein the body element

and the at least one other element are joined together by at least one modular connection, wherein the body element comprises an anterior wall and a posterior wall, at least one of the anterior wall and the posterior wall converging toward the other on a medial side of the body element and diverging away from the other on a lateral side of the body element, whereby the body element approximates a general wedge shape, wherein the body element further comprises a lateral aspect extending between the anterior wall and the posterior wall, wherein the body element further comprises a medial aspect extending between the anterior wall and the posterior wall, wherein the lateral aspect and the medial aspect are generally parallel to one another, and wherein the body element comprises a generally trapezoidal configuration.

Applicants believe that Powell discloses a modular hip prosthesis with a substantially triangular cross-section as illustrated in Fig. 11a and the Examiner's Exhibit A. Applicants believe that Powell discloses a flat lateral aspect (labeled as LA in the Examiner's Exhibit A) and a continuously rounded medial aspect (not labeled in the Examiner's Exhibit A). Applicants believe that Powell does not disclose a medial aspect and lateral aspect that are generally parallel to one another. Accordingly,

claim 9 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

Claims 10-12, which directly depend from independent claim 9, are believed to be in condition for allowance for at least the above-identified reasons.

Claim 14 comprises an improved modular prosthetic stem component comprising a body element and at least one other element, wherein the body element and the at least one other element are joined together by at least one modular connection, wherein the body element comprises a lateral wall and a medial wall extending between the anterior wall and the posterior wall, the lateral wall and the medial wall being generally parallel to one another, and the body element comprising a generally trapezoidal configuration.

Applicants believe that Powell discloses a modular hip prosthesis with a substantially triangular cross-section as illustrated in Fig. 11a and the Examiner's Exhibit A. Applicants believe that Powell discloses a flat lateral aspect (labeled as LA in the Examiner's Exhibit A) and a continuously rounded medial wall (not labeled in the Examiner's Exhibit A). Applicants believe that Powell does not disclose a medial aspect and lateral wall that are generally parallel to one another. Accordingly,

claim 14 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

In response to Item 2 above, Applicants have now amended independent claims 15 and 16 so as to more clearly define the present invention as claimed with respect to the prior art of record.

Claim 15 comprises an improved prosthetic total hip joint comprising a modular prosthetic stem component and a prosthetic acetabular cup component, wherein the modular prosthetic stem component comprises a body element and at least one other element, wherein the body element comprises a lateral wall and a medial wall extending between the anterior wall and the posterior wall, the lateral wall and the medial wall being generally parallel to one another, and the body element comprising a generally trapezoidal configuration.

Applicants believe that Powell discloses a modular hip prosthesis with a substantially triangular cross-section as illustrated in Fig. 11a and the Examiner's Exhibit A. Applicants believe that Powell discloses a flat lateral aspect (labeled as LA in the Examiner's Exhibit A) and a continuously rounded medial aspect (not labeled in the Examiner's Exhibit A). Applicants

believe that Powell does not disclose a medial wall and lateral wall that are generally parallel to one another.

Applicants believe that Khalili et al. disclose an acetubular cup. Applicants believe that Khalili et al. do not disclose a modular prosthetic stem component with a body element comprising a lateral wall and a medial wall extending between an anterior wall and a posterior wall, the lateral wall and the medial wall being generally parallel to one another. Accordingly, claim 15 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

Claim 16 comprises an improved method for restoring a hip joint, the method comprising providing an improved prosthetic total hip joint comprising a modular prosthetic stem component and a prosthetic acetabular cup component, wherein the modular prosthetic stem component comprises a body element and at least one other element, wherein the body element comprises an anterior wall and a posterior wall, at least one of the anterior wall and the posterior wall converging toward the other on a medial side of the body element and diverging away from the other on a lateral side of the body element, whereby the body element approximates a general wedge shape, wherein the body element comprises a lateral wall and a medial wall extending between the

anterior wall and the posterior wall, the lateral wall and the medial wall being generally parallel to one another, and the body element comprising a generally trapezoidal configuration.

Applicants believe that Powell discloses a modular hip prosthesis with a substantially triangular cross-section as illustrated in Fig. 11a and the Examiner's Exhibit A. Applicants believe that Powell discloses a flat lateral aspect (labeled as LA in the Examiner's Exhibit A) and a continuously rounded medial aspect (not labeled in the Examiner's Exhibit A). Applicants believe that Powell does not disclose a medial aspect and lateral aspect that are generally parallel to one another.

Applicants believe that Khalili et al. disclose an acetubular cup. Applicants believe that Khalili et al. do not disclose a modular prosthetic stem component with a body element comprising a lateral wall and a medial wall extending between an anterior wall and a posterior wall, the lateral wall and the medial wall being generally parallel to one another. Accordingly, claim 16 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

In response to Item 3 above, Applicants have now amended the above-identified application to add new claim 18, which includes all of the limitations of objected to claim 13 and base claim 9.

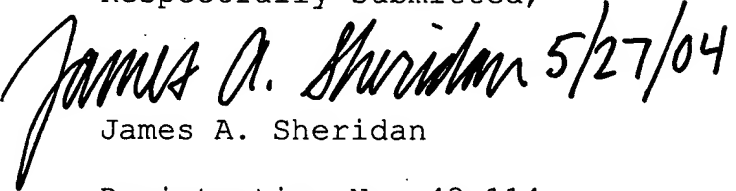
Accordingly, new claim 18 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

In response to Item 4 above, Applicants thank the Examiner for his indication that claim 17 is allowed.

In response to Item 5 above, Applicants have now amended independent claim 9. As discussed hereinabove, Applicants believe that independent claim 9 is in condition for allowance, and allowance thereof is respectfully requested.

In the event that any additional fees may be required to be paid in connection with this matter, please charge the same, or credit any overpayment, to Deposit Account No. 16-0221.

Respectfully submitted,

 5/27/04
James A. Sheridan

Registration No. 43,114

Pandiscio & Pandiscio

470 Totten Pond Road

Waltham, MA 02451

Tel. (781) 290-0060

JAS/kk

KK/HAYES5.AMD

HAYES-5